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Legal Assistance Resource Center

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S.B. 18 -- License exemption of real estate management employees

<u>Recommended legislative action</u> : FURTHER REVIEW

We ask the Committee to approach this bill with caution. As I read the bill, it would exempt from real estate licensing requirements salaried employees of rental management LLC's, if the employee does not "negotiate the terms of any lease" and if the only actions of the employee are (A) "exhibiting" apartments to prospective tenants, (B) providing "factual information" to prospective tenants, (C) accepting rental applications, and (D) accepting rent payments and security deposits. The question for us is: Who is responsible to the Real Estate Commission for their conduct?

Items (C) and (D) appear to refer to office-based clerical personnel, but (A) and (B) are much broader, including employees who spend a substantial amount of time in direct client contact, showing apartments to prospective tenants and answering questions (providing "factual" information). We wonder if it is practical to expect that such employees will give only information that is truly and accurately "factual" and not express opinions. For example, if asked while showing an apartment, "What is this neighborhood like?" it is hard to imagine that most employees will consistently be disciplined enough to say, "I'm sorry but I'm not allowed to answer that question."

We raise this concern because, in the past year, the legal aid programs have discovered numerous breaches and misrepresentations of state and federal law by real estate agencies regarding post-foreclosure practices. Many of these probably come from lack of knowledge of laws rather than from deliberate intent to mislead, but the impact on tenants is the same. You may have read in the press of the Attorney General's recent issuance of enforcement letters to real estate agents involving their violation of the federal Protecting Tenants at Foreclosure Act of 2009, the Connecticut Cash for Keys Act (Sec. 47a-20f), and the Connecticut Security Deposit Act (Sec. 47a-21(e)). In particular, real estate agents were using eviction threats to frighten tenants into vacating foreclosed buildings on extremely short notice without disclosing federal law or providing federally-required notices giving such tenants a minimum of 90 days to move and allowing them to complete their leases, were making cash-for-keys offers to induce quick departure in amounts less than the minimum required by Connecticut law, and were denying, contrary to the Security Deposit Act, that their clients (banks that had foreclosed on rental property) were responsible for returning security deposits. We are not certain whether some of the people who engage in these practices would be exempted from licensing under S.B. 18.

Before moving this bill forward, we urge the Committee to make sure that the Real Estate Commission does not lose the ability to stop conduct of the sort we have described and to appropriately discipline anyone engaged in these practices.